

Members:

Rep. Mark Kruzan, Chairperson
Rep. Richard Mangus
Rep. Dale Sturtz
Rep. David Wolkins
Sen. Kent Adams
Sen. Beverly Gard
Sen. Glenn Howard
Sen. Vi Simpson



Lay Members

Michael Carnahan
Randy Edgemon
John Fekete
Hon. Jack Fowler
Marvin Gobles
William Goffinet
Max Goodwin
John Hamilton
Stephen Hohman
Kerry Michael Manders
Gary Reding
Alice Schloss
Patrick Tuley
John Walker
Lynn Waters

LSA Staff:

Tim Tyler, Attorney for the Council
Kristin Breen, Fiscal Analyst for the Council

Authority: P.L.248-1996 (SEA 138)

ENVIRONMENTAL QUALITY SERVICE COUNCIL

**Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 232-9588 Fax: (317) 232-2554**

SUBCOMMITTEE MEETING SUMMARY

Meeting Date: July 28, 1998
Meeting Time: 2:00 P.M.
Meeting Place: State House, 200 W. Washington St.,
Room 401-B
Meeting City: Indianapolis, Indiana
Meeting Number: 1

Members Present: Rep. David Wolkins; Sen. Beverly Gard; Sen. Glenn Howard;
Kerry Michael Manders.

Members Absent: Sen. Kent Adams; Sen. Vi Simpson.

UNDERGROUND STORAGE TANKS

Cynthia Wagner, Section Chief of the Indiana Department of Environmental Management (IDEM) Underground Storage Tank Section, stated the following:

*Federal law requires the owner or operator of an underground storage tank installed before December 22, 1988, to add spill and corrosion protection to the tank, close the tank, or replace the old tank with a new tank before December 22, 1998.

*There are 3,000 underground storage tank owners in Indiana, of which 2,900 are small operators that own not more than 12 tanks.

*While 80% of the "middle marketers" are in compliance with the federal law, only about 29% of these small "mom and pop" operators are in compliance.

*If a tank is not permanently closed by December 22, 1998, the owner may be able to temporarily close the tank by that date and permanently close the tank within one year.

*After December 22, 1998, IDEM will begin "full-blown compliance inspections" and if inspectors find any underground tank that is not in compliance with federal law, the IDEM enforcement division will be notified.

*A conservative estimate of the cost to upgrade one underground storage tank is approximately \$12,700.

Dave Hensel, from the IDEM Underground Storage Tank Enforcement Division, stated the following:

*The December 22, 1998, deadline "is real and cannot be extended."

*IDEM will continue to engage in education and other support programs for underground storage tank owners, but there will be no "grace period" for owners who are not in compliance with the federal law.

*IDEM will use a "penalty matrix," which includes an "economic benefit" calculation, to determine the amount of any fine to impose on underground storage tank owners who are not in compliance.

*Most underground storage tank owners who have yet to upgrade their tanks have not done so because of the costs involved.

*IDEM is more interested in getting tanks into compliance with federal law than in collecting fines. However, while IDEM will work with tank owners to mitigate penalties, it would not be fair to all the tank owners who have spent money to come into compliance with the federal law by December 22, 1998, if those who are not in compliance are not penalized in some way.

*A temporary closure of an underground storage tank by December 22, 1998, can "stop the clock from running" on penalties for one year.

*IDEM will make a list of tank owners who are and who are not in compliance available to the public, but it would be "bad policy" to publicize its enforcement strategy.

*IDEM may use a "system of stickers" to allow tank owners to indicate that their tanks are in compliance with the federal law.

Mike Pitts, from the Indiana Petroleum Marketers and Convenience Store Association, stated the following:

*There are concerns about the potential liability of companies that "deliver product" to underground storage tanks that do not comply with the federal law.

*His association would like IDEM to indicate which tanks are in compliance and which are not in compliance before December 22, 1998.

*Some tank owners who came into compliance with the federal law more than six to eight years ago may have trouble proving they are in compliance today.

*Twelve thousand seven hundred dollars is a "bare bones" estimate to upgrade a tank and will only provide a temporary solution to a tank owner.

*Those contractors who are certified to close out underground storage tanks are

so busy now that they may not get to many of the tanks they are scheduled to close before the deadline.

*There are many underground storage tanks that are still in use that are not registered in the IDEM database.

*There are still a lot of unanswered questions about compliance and enforcement and a "dialogue" with IDEM must continue.

Courtney Tobin, from the Indiana Development Finance Authority (IDFA), stated the following about the underground storage tank guaranty program and fund:

*SEA 158-1998 allows the IDFA to use money in the Underground Storage Tank Guaranty Fund to award grants to underground storage tank owners and operators to assist in the closure or removal of underground storage tanks.

*IDFA has received 88 applications for financial assistance, at least half of which were submitted on the first day applications were accepted.

*IDFA allocated funds by congressional district and, while money is still available for tank owners in some districts, there is a waiting list for assistance in other districts.

*IDFA is allowing any tank owner who has made at least 50% of required tank fee payments to apply for assistance.